IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1930 OF 2006

Dr.Sadankumar Goel ..Petitioner

Vs.

State of Maharashtra & Anr. ..Respondents

Mr.Ganesh Gole for the petitioner

Mr.Raja Thakare for respondent no.7

Mrs.S.D.Shinde, A.P.P. for the respondent no.1 to 4

CORAM : J.N.PATEL &
SMT.ROSHAN S.DALVI, JJ.

DATED : 28TH SEPTEMBER, 2006

P.C.:

1. Heard the petitioner who is the husband of the victim i.e. the deceased Dr.Asha Goel who was found murdered has moved this court for seeking direction to the respondent nos 1 to 7 to take appropriate steps under section 166(A) of Cr.P.C. in C.R.N.6 of 2004 registered at DCB DID, Unit II (Malabar Hill Police Station C.R.No.93 of 2003). In so far as forensic investigation is concerned, to approach the Government of Canada for seeking assistance from appropriate agency or agencies of

the said Government to investigate offence in so far as it relates to DNA testing of the articles recovered from accused PK Goenka and Pradeep Parab during the investigation, and of the materials recovered from the Santro car seized during the investigation alongwith all other material collected in the course of investigation relevant for the purpose of such forensic and medical examination to Canada as there is no such facility available in India.

2. The petitioner has come up with a case that for want of proper medical and forensic investigation, material evidence would be lost to the prosecution and therefore at his request, office of the Chief Coroner of the Province of Ontario has written a letter dt.1.5.06 to A.N.Roy, Commissioner of Police, Crawford Market, Mumbai that they are ready to assist the investigating team in their desired area and that the Office of the Chief Coroner for Ontario has performed a second autopsy on Dr.Asha Goel at their family's request and they have preserved genetic material of the deceased, which can be used to make a genetic

comparison to any samples that the Investigating Agency in India may wish to have tested.

3. It is also mentioned in their letter that the investigation is carried out in conjunction with the Centre of Forensic Sciences and with their biology section which has been successful in extracting DNA material from fabric that has been washed and because of this expertise, the biology section has the ability to attempt extraction of DNA from the samples the detectives at Mumbai recovered in the case of the murder of Dr.Asha Goel.

4. This agency has also extended cooperation in the forensic investigation particularly in the field of DNA analysis from homicides which occurred in the United States.

5. This letter rather reflects the concern on the part of the office of the Chief Coroner for Ontario because the deceased Dr.Asha Goel was a Canadian Citizen and a resident of Ontario and he claims that it is thus, within their mandate to

perform any and all required services to aid the investigation into her death.

6. On the petition being presented alongwith the letter addressed to the Commissioner of Police, we called upon the investigating agency to file their short reply. Sr.P.I., DCB, CID, Unit II, Mumbai Shri Jaywant Kanhu Hargude has filed their reply accepting that the facility for Mitochondrial DNA analysis is not available in the forensic Science Laboratory either at Kalina or at Kolkatta and if it is the petitioner's belief that carrying out such an analysis on the material seized by the Police during the course of investigation would bring to light with unerring certainty the culpability of the concerned accused, it will only aid the investigation further and hence, there cannot be any question of having any objection to the helping hand offered by the petitioner to the investigating agency.

7. In the given peculiar facts and circumstances and taking into consideration the seriousness, the manner and nature in which the

offence was committed, as it pertains to a Canadian citizen, we find no reason why the investigating agency should not take assistance of medical and forensic investigation in the case from Canada in terms of the letter addressed to the Commissioner of Police, Mumbai as it will subserve the interest of justice and would not cause any prejudice to the accused persons. On the other hand, it will help the prosecution in presenting a full proof case. We may also observe that if such medical and forensic investigation is carried out it may also benefit the accused. Therefore, we direct the respondents to forward the material collected in the course of investigation to the Office of the Chief Coroner, Ontario as per their letter of request dt.1.5.06 after complying with all the required formalities. In case any such materials, for the purpose of safety and security, are required to be be personally carried and entrusted to the concerned office, the state should not hesitate to depute a responsible officer from the Investigating team to carry the material to the laboratory and after analysis is done, bring it back along with the report subject to the expenses

being borne by the petitioner.

8. In view of the fact that this court has permitted the investigating agency to get the material collected in the course of investigation examined in Canada, it will take some time and, therefore, the trial court would wait for such a report which will be part of medical and forensic investigation which can be filed in the the trial court under section 173(8) of Cr.P.C.

9. Petition disposed of accordingly.

(SHRI J.N. PATEL, J)

(SMT.ROSHAN qDALVI, J)